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Michael N. Milby, Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

MARK NEWBY, et al.

Plaintiffs,

v.

ENRON CORPORATION, et al.,

Defendants

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Civil Action No. H-01-3624 ✓  
And Consolidated Cases

ABBEY NATIONAL TREASURY  
SERVICES plc

Plaintiff,

v.

CREDIT SUISSE FIRST BOSTON  
CORPORATION, et al.

Defendants

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Civil Action No. H-02-3869

**PLAINTIFF'S REPLY IN FURTHER SUPPORT OF ITS  
MOTION TO ENLARGE TIME TO SERVE THE SUMMONSES,  
COMPLAINT AND AMENDED COMPLAINT IN THIS ACTION**

Plaintiff Abbey National Treasury Services plc (hereinafter "plaintiff") submits this reply in further support of its motion to enlarge the time to serve the summonses, complaint and amended complaint in this action until June 10, 2003.

In its motion to enlarge its time to serve the summonses, complaint, and amended complaint, plaintiff explained that, although 21 of the 34 defendants in this action already have been served, additional time is needed to serve the summons and complaint on the 13 foreign defendants that are located in five different countries, pursuant to the time-consuming requirements of the Hague Convention On The Service Abroad of Judicial And Extra-Judicial

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Documents In Civil And Commercial Matters. *See* Plaintiff's Amended Motion to Enlarge Time to Serve the Summonses, Complaint and Amended Complaint In this Action ("plaintiff's motion"), ¶¶ 5-10.<sup>1</sup>

Certain defendants<sup>2</sup> have responded to plaintiff's request for additional time to serve the summonses, complaint and amended complaint by noting that an action asserting the same claims for relief as those asserted in this action has been filed against the defendants in the United States District Court for the Southern District of New York (the "New York Action"). *See* Certain Defendants' Response to Plaintiff's Motion to Enlarge Time to Serve the Summonses, Complaint and Amended Complaint in this Action ("Defendants' Response"), p. 2.

However, as the defendants well know, the New York Action was filed in order to protect plaintiff and preserve its claims in the event that any one or more of the defendants contest personal jurisdiction in the Southern District of Texas. Most of the United States-based defendants have offices in New York. Plaintiff also has sought the transfer of the action filed in the Southern District of New York to this district as a tag-along action to the Enron-related cases transferred here by Order of the Judicial Panel on Multidistrict Litigation under MDL Docket No. 1446 (In Re Enron Corp. Securities, Derivative & "ERISA" Litigation). Accordingly,

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<sup>1</sup> As explained in plaintiff's motion, ¶ 3, service of foreign defendants pursuant to the Hague Convention, as contemplated under Federal Rule of Civil Procedure 4(f), does not appear to be subject to the 120-day limitation for completion of service set forth in Federal Rule of Civil Procedure 4(m). However, to avoid unnecessary motion practice in the future, plaintiff respectfully requests that the Court sign its proposed Order enlarging plaintiff's time to complete service by 120 days.

<sup>2</sup> The defendants that have responded to plaintiff's request for additional time to serve the summonses, complaint and amended complaint are Credit Suisse First Boston Corporation, Credit Suisse First Boston (USA), Inc., Credit Suisse First Boston, Inc., J.P. Morgan Chase & Co., J.P. Morgan Securities Inc. (formerly known as Chase Securities Inc.), J.P. Morgan Securities Holding Inc., J.P. Morgan Investment Corp., Bank of America Corporation, Banc of America Securities LLC, Canadian Imperial Bank of Commerce, CIBC Inc., CIBC WorldMarkets Corp., Deutsche Bank AG, Deutsche Banc Alex. Brown Inc., ABN AMRO Incorporated, successor to named defendant ABN AMRO Securities (USA) Inc., and ABN AMRO Bank N.V.

plaintiff is not attempting to have its claims considered by more than one court, as alleged by defendants. *See* Defendants' Response, p. 2. Rather, plaintiff's only intention is to have its claims against each of the defendants heard on the merits and to avoid dismissal as against any of the defendants based on lack of personal jurisdiction or on any other procedural ground.

### **Conclusion**

For these reasons and the reasons set forth in their moving papers, plaintiff respectfully requests that its Amended Motion to Enlarge the Time to Serve the Summonses, Complaint and Amended Complaint be granted and that the time period for performing service in this action be extended to June 10, 2003.

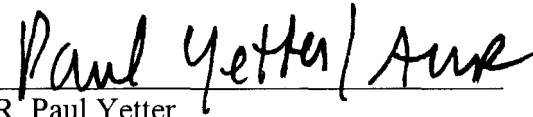
Dated: March 7, 2003

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Respectfully submitted,

  
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### **CERTIFICATE OF SERVICE**

I hereby certify that on this 7th day of March, 2003, a true and correct copy of the foregoing pleading was served on the following counsel pursuant to the Federal Rules of Civil Procedure:

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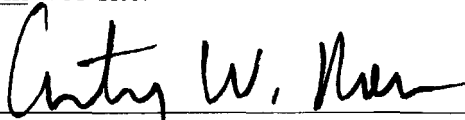
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I further certify that on this 7th day of March, 2003, service of the foregoing pleading was also performed electronically via the [www.esl3624.com](http://www.esl3624.com) web site.

  
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Autry W. Ross